IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 145 OF 2006

1. Avinash Sevak Gharat,
2. Santosh Vishnu Gharat,
3. Dilip Gajanan Gharat,
4. Sunil Gajanan Gharat,
5. Sanjay Damodar Gharat,
6. Sou.Sharadabai Sevak Gharat,
7. Sevak Nathu Gharat,
8. Gajanan Jayram Gharat,
9. Vishwas Sakharam Gharat,
10. Yashwant Daji Jadhav,
11. Subhas Damodar Gharat,
12. Baban Daji Jadhav,
13. Kashinath Daji Jadhav,
14. Baburao Damodar Gharat. ...Applicants

V/s.

The State of Maharashtra. ...Respondent

S/Shri S.V. Kotwala with M.S. Mohite for Applicants.
Shri Y.S. Shinde, APP for the State.

CORAM : V.M. KANADE, J.

DATED : FEBRUARY 22, 2006

P.C. :-

l. Heard learned Counsel for the applicants and learned APP for the State.

. The applicants are convicted by the trial court for an offence punishable under Section 304 Part II read

with Section 149 and under Section 324 read with Section 149 and under Sections 147 and 148 of the IPC. The trial Court sentenced them to suffer R.I. for 7 years each and to pay a fine of Rs.1000/- each and in default, to suffer further R.I. for one month.

2. The prosecution case in brief is that all the applicants assembled outside the house of the deceased Vatsalabai and started abusing her and her family members. Vatsalabai came out of the house alongwith Jaywantibai. Accused no.1 assaulted the deceased with a wooden log on her head, as a result of which, she succumbed to head injuries and died. Accused no.5 gave a stick blow on Jaywantibai. The applicants no.2 to 14 were on bail during the trial.

3. Considering the facts and circumstances of the case, in my view, the applicants no.2 to 14 are entitled to be released on bail and there is prima facie no evidence to suggest that they shared the common intention of applicant no.1. The applicant no.1, however, had assaulted the deceased who was an old lady

with a wooden log on her head. The applicant was not released on bail during trial. In the circumstances, this is not a fit case for grant of bail to applicant no.1 at this stage.

4. In the result, application for bail filed by applicant no.1 is rejected. Liberty is, however, granted to the applicant to apply again if the appeal is not heard within a reasonable period of time.

5. Applicants no.2 to 14 be released on bail in the sum of Rs.5000/- each with one or two sureties in the like amount.

. Application is disposed of in the above terms.

(V.M. Kanade, J.)